

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

Majken Janelle Robinson,

Plaintiff,

v.

Michael J. Astrue,  
Commissioner of Social Security,

Defendant.

C/A No. 1:11-3082-CMC

**OPINION & ORDER**

Through this action, Plaintiff seeks judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's claim for Disability Insurance Benefits ("DIB"). Plaintiff appealed pursuant to 42 U.S.C. § 405(g). The matter is currently before the court for review of the Report and Recommendation ("Report") of Magistrate Judge Shiva V. Hodges, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rules 73.02(B)(2)(a), 73.02 (B)(2)(b), and 83.VII.02, *et seq.*, D.S.C. The sole issue addressed in the Report is whether Plaintiff should be required to pay the filing fee or whether Plaintiff's financial condition justifies waiver of the filing fee.

On November 10, 2011, Plaintiff filed an Application to Proceed Without Prepayment of Fees ("*In Forma Pauperis* Application"), in which Plaintiff reported that she has \$79,000 in cash or in checking or savings accounts and that she received \$79,500 "[u]pon [her] father's death and the sale of his house" within the past twelve months. Dkt. No. 3. On November 21, 2011, the court ordered Plaintiff to explain "why Plaintiff cannot pay the filing fee of \$350.00 in this case." Dkt. No. 11. On November 29, 2011, Plaintiff responded to the court's special interrogatory and stated, "I am trying to make the inheritance last ten years. I have only a \$500.00 monthly

allowance to pay electricity, medical care and personal needs.” Dkt. No. 14.

The Report, filed on December 5, 2011, recommends that Plaintiff’s *In Forma Pauperis* Application be denied. Dkt. No. 17. Neither party has filed objections to the Report, which were due on December 22, 2011.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).<sup>1</sup>

The court has reviewed Plaintiff’s *In Forma Pauperis* Application, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. Finding none, the court adopts and incorporates the Report by reference. For the reasons set forth therein, Plaintiff’s *In*

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<sup>1</sup> The court would reach the same result under a *de novo* review. The court agrees with the Report that Plaintiff would not be rendered destitute by paying the filing fee of \$350.00. Nor is there any indication that payment of the filing fee would impose an undue hardship on Plaintiff or block Plaintiff’s access to the courts. *See Carter v. Telectron, Inc.*, 452 F. Supp. 939 (S.D. Tex. 1976); *Abbot v. Commissioner of Social Security*, No. 4:10-2253, 2010 WL 4226151 at \*1 (D.S.C. Sept. 17, 2010). On her *In Forma Pauperis* Application, Plaintiff reported that she has \$79,000 in cash or in checking or savings accounts. Dkt. No. 3. Although Plaintiff has indicated a desire “to make the inheritance last ten years” (Dkt. No. 14), the court finds that Plaintiff has the ability to pay the \$350.00 filing fee.

*Forma Pauperis* Application is denied.

**IT IS SO ORDERED.**

S/ Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
January 3, 2012